

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TITUS HENDERSON,

Plaintiff,

v.

JAMES ELSINGER, et al.

Defendants.

ORDER

Case No. 21-cv-562-jdp

On November 16, 2021, I entered an order assessing plaintiff Titus Henderson an initial partial payment of \$1.11 in the above case. Now plaintiff has filed a motion to waive the initial partial filing fee. Dkt. 9. I will deny without prejudice plaintiff's motion for the following reasons.

In 28 U.S.C. § 1915, Congress has dictated the manner in which prisoners must pay the fees for filing federal lawsuits and appeals, and I have no discretion to modify this method. In calculating the amount of plaintiff's initial partial payment in this case, I used the prisoner trust fund account statement plaintiff submitted on November 16, 2021, in support of his for leave to proceed without prepaying the fee. Dkts. 8 and 9. The account statement shows that plaintiff has had deposits made to his account, which I was able to calculate plaintiff's average monthly deposits to be \$1.11.

Because plaintiff is receiving regular deposits to his account, I will give plaintiff an extension of time, until January 4, 2022, to submit the \$1.11 initial partial payment. If plaintiff does not have enough money in his regular account to pay the \$1.11 initial partial payment, plaintiff may use funds from his release account to pay the \$1.11 initial partial payment.

ORDER

IT IS ORDERED that:

1. Plaintiff Titus Henderson's motion to waive the initial partial payment in the above case, dkt. 9, is DENIED without prejudice.

2. Plaintiff may have an enlargement of time to January 4, 2022, in which to submit a check or money order payable to the clerk of court in the amount of \$1.11. If, by January 4, 2022, plaintiff fails to make the \$1.11 initial partial payment, or to show cause for his failure to do so, plaintiff will be held to have withdrawn the action voluntarily.

Entered this 15th day of December, 2021.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge